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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/975,317	10/12/2001	Alan David Watson	WATS3001/REF/C	8178

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EXAMINER

JONES, DAMERON LEVEST

ART UNIT	PAPER NUMBER
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1618

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/975,317
Filing Date: October 12, 2001
Appellant(s): WATSON ET AL.

Richard E Fichter

For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 10/24/05 appealing from the Office action mailed 12/22/04.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

No evidence is relied upon by the examiner in the rejection of the claims under appeal.

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

I. The rejection of claims 75-77, 79-82, and 87-95 rejected under 35 U.S.C. 102(b) as being anticipated by Rocklage (US Patent No. 5,190,744) is WITHDRAWN because Appellant has amended the claims to overcome the cited prior art.

II. Claims 76, 77, 79-81, 84-86, 88-93, and 96 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rocklage (US Patent No. 5,190,744) in view of Rocklage (US Patent No. 4,889,931).

Rocklage '744 discloses a method of detecting myocardial ischemia in a subject comprising administering a contrast medium comprising a manganese complex and subjecting the subject to a fast MRI technique to detect abnormal blood flow (see abstract). Methods of fast MRI, as claimed, are disclosed in column 2 (lines 10-32). Manganese chelates are disclosed in column 4 (line 55) and claim 26 of the patent. The dosages are within the claimed dosages (column 5, lines 38-61). The methods of Rocklage '744 are for imaging myocardial ischemia (column 2, lines 33-38 and column 8, lines 17-57). In addition, Rocklage '744 discloses that various known chelating agents may be employed (column 4, lines 19-49). However, Rocklage '744 fails to specifically disclose the use of the same contrast agents as instantly claimed (e.g., manganese complexes, such as that in newly added claim 96), but does disclose the used of its contrast agents for cardiovascular system imaging.

Rocklage '931 discloses MRI contrast agents comprising manganese chelates which are highly stable chelating agents and thus are suitable for method of imaging (column 2, lines 1-40). In addition, the reference discloses that manganese is the preferred metal for such MRI complexes (column 3, lines 34-36). The contrast agents include manganese complexes of DPDP (column 4, lines 47-50). It should be noted that these chelates are the same as those of the instant invention (see column 3, formula I and columns 4-5, bridging paragraph).

Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Rocklage '744 using the teachings of Rocklage '931 and generate a method of distinguishing viable myocardial tissue from necrotic (infarcted) tissue in a subject as set forth in independent claim 96 because: (1) both references disclose the use of contrast agents for imaging the cardiovascular system; and (2) the chelating agents disclosed by Rocklage '931 encompass those of the instant invention. (3) Also, a skilled practitioner in the art would recognize that imaging the heart generates an image of the complete heart, so while the entire heart will be imaged, the intensity of the contrast agent absorb would vary depending upon the type of tissue (i.e., infarcted and/or healthy) present. For example, the skilled practitioner would recognized that the properties of infarct and healthy tissue are different so, the outcome from administering a composition would differ such that both while both tissues would be imaged, one would be able to distinguished between the two based on the intensity of absorbed contrast agent. (4) In addition, a skilled practitioner in the art would recognize that since the compositions administered to the

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subject are the same, the properties of those compositions would be the same as well.

Thus, if Applicant's contrast agent is capable of distinguishing between viable and necrotic myocardial tissue, the contrast agents of the prior art would also possess those properties. (5) Furthermore, it is noted that in Rocklage '744, it is disclosed that MRI using magnetic susceptibility contrast agents allows one to determine the existence and location of a perfusion deficit and detect the degree or severity, and if possible the onset and duration, of abnormalities or variations in a quantifiable manner when a subject is administered a contrast agent (abstract; column 1, lines 7-12 and 26-55).

III. Claims 78 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rocklage (US Patent No. 5,190,744) in view of Goldenberg (US Patent No. 5,632,968).

Rocklage '744 (also see discussion above) discloses that various varieties of echo planer imaging are suitable with their invention (column 2, lines 19-23), but fails to specifically disclose that the echo imaging is an inversion recovery echo imaging method.

Goldenberg disclose method of imaging cardiovascular lesion and teaches that inversion recovery is a well known and equivalent method of spin-echo MRI (column 13, lines 23-48).

Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the method disclosed by Rocklage '744 and use inversion-recovery spin-echo MRI as the spin echo MRI procedure because it is well known in the art, as indicated by Goldenberg, that such technique is useful and an equivalent method of spin-echo MRI.

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Note: The above rejections were modified in response to the after final amendment being entered after appeal. The modification is necessary in order to be consistent with the newly added and amended claims. Thus, the above modification is not viewed as new grounds of rejections.

(10) Response to Argument


No additional response is need because the issues raised by Appellant were fully responded to under "Grounds of Rejection" above.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,


D. L. Jones
Primary Examiner
Art Unit 1618

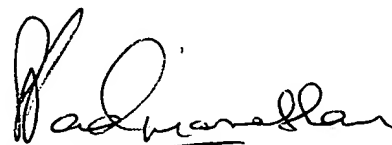
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